

REMARKS

Applicant submits this amendment in response to the Office Action dated August 24, 2005.

In the Office Action, the Examiner rejected claims 1-5, 7-13, 15-21, and 23-25 under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 6,266,640 to Fromm (hereinafter "Fromm"). Additionally, the Examiner rejected claims 6, 14, and 22 under 35 U.S.C. § 103(a) as allegedly unpatentable over Fromm in view of WO 02/071,176 A2 to Enosh et al. (hereinafter "Enosh"). Applicant respectfully traverses all rejections of record.

Claim Rejections Under 35 U.S.C. § 102

Anticipation under 35 U.S.C. § 102 requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention. *See, e.g., Apple Computer, Inc. v. Articulate Systems, Inc.*, 57 U.S.P.Q.2d 1057, 234 F.3d 14 (Fed. Cir. 2000).

Claims 1-5, 7-13, 15-21, and 23-25 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Fromm.

Independent claim 1 is directed to a method for conducting a secure transaction and has been amended to include the elements of, *inter alia*:

providing a database of payment account entries, wherein each entry comprises at least a first voice sample associated with a holder of said payment account; and

determining if the payment account participates in voice authentication services.

Fromm is directed to a technique for verifying a user's voice in conducting a business transaction over a computer data network. (*See Fromm, Abstract*). The technique

involves retrieving a user's voice print from a voice print bank based on the user's ID which is ascertained from his data network address. (See Fromm, col. 1, lines 61-63). Fromm, however, fails to disclose or even remotely suggest the use of a database of payment account entries, wherein each entry comprises at least a first voice sample associated with a holder of said payment account. This database stores the holder's voice sample based on the payment account information. Fromm, instead, stores a user's voice print based on his data network address. (See Fromm, col. 1, lines 61-63 and col. 3, lines 22-25).

Indeed, the portion of Fromm cited by the Examiner as disclosing or suggesting this feature, i.e., col. 2, lines 66 - col. 3, lines 7, states that "This storage may take place, for example, when the user first registers with the data network to obtain the user's logical address." Rather than disclosing or suggesting the database of the Applicant's invention based on payment account information, this language instead further bolsters Applicant's argument that Fromm is in fact directed to a system which stores voice prints based on the user's logical address (the User's ID).

As discussed in the Applicant's specification, the use of a database which stores voice samples based on the holder's payment account information (e.g. credit card number) is directly related to the object of allowing the system and method of the Applicant's invention to be implemented regardless of the means by which the transaction between the user and merchant is conducted. (Specification, paragraph 0016, lines 2-6). For example, the transaction of the Applicant's invention could occur via a telephone, PDA or mobile telephone. (Specification, paragraph 0016 and 0041). Likewise, in the Applicant's invention, a consumer could use a shared computer (one already connected to the data network) to make a transaction with voice authentication by providing his name and payment account information. The system in Fromm,

however, would fail to authenticate this transaction because it relies on the consumer logging onto the data network and retrieves voice prints based on the consumer's logical address (*See* Fromm, col. 3, lines 21-24 which states "Voice verification unit 103 then maps the received logical address to the prestored voice print and reads the prestored voice print into its working memory.").

Additionally, the element of previously presented claim 8 was added to independent claim 1, so that claim 1 now includes the step of determining whether the payment account participates in voice authentication services. The Examiner argues that this element is disclosed in Fromm at column 3, lines 16-24. (*See* Office Action, page 3). The Applicant, however, disagrees with this view. That section of Fromm describes how the user's voice is verified prior to allowing the transaction by transmitting the user's logical address to the voice verification unit in order to read the associated voice print into its working memory. That section, however, does not disclose or even remotely suggest the step of determining whether the payment account participates in the voice authentication services. Instead, Fromm presumes that the user participates voice authentication services. (*See* Fromm, col. 3, lines 8-9).

Therefore, Fromm fails to disclose each and every limitation of independent claim 1 and cannot properly anticipate this claim. Independent claim 9 has been amended to include the elements of, *inter alia*:

providing a database of payment account entries, wherein each entry comprises at least a first voice sample associated with a holder of said payment account; and

determining if the payment account participates in voice authentication services.

Independent claim 17 has been amended to include the elements of, *inter alia*:

providing a database of payment account entries, wherein each entry comprises at least a first voice sample associated with a holder of said payment account; and

determining if the payment account participates in voice authentication services.

Independent claim 25 has been amended to include the elements of, *inter alia*:

said server computer subsystem comprising information relating to at least one payment account including at least a first voice sample of an account holder of said payment account; and

wherein said voice authentication subsystem determines if the payment account participates in voice authentication services.

Therefore, for the same reasons discussed above with respect to claim 1, Fromm fails to disclose each and every limitation of independent claims 9, 17, and 25 and cannot properly anticipate these claims.

Claims 7, 15, and 23 include the additional element that the authentication request includes at least a device category data field, an authentication request channel data field, a cardholder phone number data field and a voice channel transfer method data field. Fromm, on the other hand, fails to disclose or even remotely suggest the use of all of these data fields. Therefore, claims 7, 15, and 23 are not anticipated by Fromm.

Additionally claims 8, 16, and 24 have been amended and comprise the additional step of prompting the holder for authorization to complete the transaction. Fromm, however, fails to disclose or even remotely suggest the use of this step. Therefore, claims 8, 16, and 24 are not anticipated by Fromm.

Because Fromm fails to disclose or suggest at least these claimed elements, it cannot properly anticipate claims 1, 9, 17, and 25. Applicant respectfully submits that claims 1, 9, 17, and 25 are in condition for allowance. Additionally, because all remaining claims depend

from claims 1, 9, 17, and 25, it is respectfully submitted that these claims are in condition for allowance as well. Finally, Claims 4, 7, 8, 12, 15, 16, 20, 23, and 24 also contain additional elements discussed above which Fromm does not teach, and, therefore, these claims are not anticipated by Fromm for these additional reasons.

Claim Rejections Under 35 U.S.C. § 103(a)

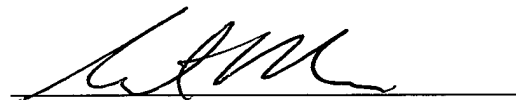
Claims 6, 14, and 22 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Fromm in view of Enosh.

As discussed above, Fromm fails to teach or even remotely suggest all the elements recited in independent claims 1, 9, 17, and 25. Therefore, the cited reference fails to demonstrate that all aspects of the claimed invention were individually known in the art. Claims 6, 14, and 22 also include the limitation described above via their dependency from independent claims 1, 9, and 17. Accordingly, Applicant respectfully submits that claims 6, 14, and 22 are in condition for allowance.

CONCLUSION

In view of the foregoing amendments and remarks, favorable consideration and allowance of claims 1-30 as amended is respectfully solicited. Applicant hereby authorizes the Commissioner to charge payment of any additional fees or credit any overpayment associated with this communication to Deposit Account No. 02-4377. In the event that the application is not deemed in condition for allowance, the Examiner is invited to contact the undersigned in an effort to advance the prosecution of this application.

Respectfully submitted,



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